

Attachment 1: Proposed Planning Act 2016 Delegations

Name of Legislation / Legislative Powers		Delegations by Council to CEO (s257 LGA 2009)	
Description of Power - <i>Planning Act 2016</i>	Section	Delegation Date	Condition(s)
Power to make submissions to the Minister about the making or amending of a State Planning instrument.	s10	Xx/xx/2017	
Power to give notice of a proposed planning scheme or proposed amendment to a planning scheme to the chief executive and follow the process for making or amending a planning scheme. For avoidance of doubt, the power delegated includes the power to take all actions as detailed in sections 18, 20 and 26 and as required under a notice given by the chief executive or in the Minister's rules.	ss18, 20, and 26		This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Power to apply a planning scheme as a categorising instrument in relation to prescribed tidal works in the tidal area for Council's non-port local government area	s19	Xx/xx/2017	
Power to follow the process for the making or amending of an LGIP as set out in the Minister's rules. For avoidance of doubt, the power delegated includes the power to take all actions as detailed in sections 21 and 26 and as required in the Minister's rules.	ss21 and 26	Xx/xx/2017	This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Power to follow the process for the making or amending of a planning scheme policy as set out in the Minister's rules. For avoidance of doubt, the power delegated includes the power to take all actions as detailed in sections 22 and 26 and as required in the Minister's rules.	ss22 and 26	Xx/xx/2017	This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Power to follow the process for the making or amending of a TLPI as set out in the Minister's rules. For avoidance of doubt, the power delegated includes the power to take all actions as detailed in sections 23 and 26 and as required in the Minister's rules.	ss23 and 26	Xx/xx/2017	This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Power to follow the process for repealing a TLPI or planning scheme policy. For avoidance of doubt, the power delegated includes the power to take all actions as detailed in section 24.	s24	Xx/xx/2017	This delegation does not include the power to decide to repeal the TLPI or planning scheme policy which is required to be exercised by Council pursuant to a resolution of Council (as per subsection (1)).
Power to review a planning scheme and a LGIP and follow the process for the review as set out in the Minister's rules. For avoidance of doubt, the power delegated includes the power to take all actions as detailed in sections 25 and 26 and as required in the Minister's rules.	ss25 and 26	Xx/xx/2017	This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.

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Description of Power - <i>Planning Act 2016</i>	Section	Delegation Date	Condition(s)
Power to decide whether or not to agree to a superseded planning scheme request and give notice of the decision.	s29	Xx/xx/2017	
Power to decide a compensation claim and provide notice of a decision. For avoidance of doubt, the power delegated includes the power to take all actions and consider all matters detailed in sections 32 and 33.	ss32 and 33	Xx/xx/2017	
Power to make or amend a designation and follow the process in the designation process rules. For avoidance of doubt, the power delegated includes the power to take all actions and consider all matters detailed in sections 35, 36, 37, 38 and the designation process rules.	ss35, 36, 37 and 28	Xx/xx/2017	This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Power to extend the duration of a designation. For avoidance of doubt, the power delegated includes the power to take all actions as detailed in section 39.	s39	Xx/xx/2017	
Power to repeal a designation made by Council. For avoidance of doubt, the power delegated includes the power to take all actions and consider all matters as detailed in sections 40 and 41.	ss40 and 41	Xx/xx/2017	
Power to include a note about the making, amendment, extension or repeal of a designation in Council's planning scheme. For avoidance of doubt, the power delegated includes the power to take all actions as detailed in section 42.	s42	Xx/xx/2017	
Power to give an exemption certificate for a development and take all actions as detailed in section 46.	s46	Xx/xx/2017	
Power to act as the "assessment manager" for material change of use code assessable development applications, change representations, cancellation applications, lapsed approvals or applications, and extension applications received by Council under Chapter 3 of the Act. For avoidance of doubt, the power delegated includes the power to take all actions of an assessment manager and consider all matters as detailed in sections 48, 51, 53, 54, 59, 60, 61, 62, 63, 64, 65, 67, 71, 76, 84, 85, 86, 87, 93, 100, 101, 105, 107 and 109 of the Act.	Sections 48, 51, 53, 54, 59, 60, 61, 62, 63, 64, 65, 67, 71, 76, 84, 85, 86, 87, 93, 100, 101, 105, 107 and 109	Xx/xx/2017	Progress reports on applications being assessed under delegation are to be briefed to Councillors at a monthly briefing or at another suitable time.

Name of Legislation / Legislative Powers		Delegations by Council to CEO (s257 LGA 2009)	
Description of Power - <i>Planning Act 2016</i>	Section	Delegation Date	Condition(s)
<p>Power to act as the “assessment manager” for reconfiguration code assessable development applications, change representations, cancellation applications, lapsed approvals or applications, and extension applications received by Council under Chapter 3 of the Act.</p> <p>For avoidance of doubt, the power delegated includes the power to take all actions of an assessment manager and consider all matters as detailed in sections 48, 51, 53, 54, 59, 60, 61, 62, 63, 64, 65, 67, 71, 76, 84, 85, 86, 87, 93 100, 101, 105, 107 and 109 of the Act.</p>	<p>Sections 48, 51, 53, 54, 59, 60, 61, 62, 63, 64, 65, 67, 71, 76, 84, 85, 86, 87, 93, 100, 101, 105, 107 and 109</p>	<p>Xx/xx/2017</p>	<p>Reconfiguration code assessable applications can only be approved where they are for the creation of 10 additional allotments or less unless the applicant is seeking a deemed approval under s64.</p> <p>Where Council has received notice that an applicant will seek a deemed approval under s64 and there is not a scheduled Council Meeting within the relevant timeframe, a decision may be made under this delegation to approve or refuse the application.</p> <p>Progress reports on applications being assessed under delegation are to be briefed to Councillors at a monthly briefing or at another suitable time.</p>
<p>Power to act as the “assessment manager” for impact assessable development applications, change representations, cancellation applications, lapsed approvals or applications, and extension applications received by Council under Chapter 3 of the Act.</p> <p>For avoidance of doubt, the power delegated includes the power to take all actions of an assessment manager and consider all matters as detailed in sections 48, 51, 53, 54, 59, 60, 61, 62, 63, 64, 65, 67, 71, 76, 84, 85, 86, 87, 93 100, 101, 105, 107 and 109 of the Act.</p>	<p>Sections 48, 51, 53, 54, 59, 60, 61, 62, 63, 64, 65, 67, 71, 76, 84, 85, 86, 87, 93, 100, 101, 105, 107 and 109</p>	<p>Xx/xx/2017</p>	<p>Impact assessable (consistent only) applications can only be approved where no submissions have been received by Council during the notification period.</p> <p>Powers do not include refusing an impact assessable development application.</p> <p>Progress reports on applications being assessed under delegation are to be briefed to Councillors at a monthly briefing or at another suitable time.</p>

Name of Legislation / Legislative Powers		Delegations by Council to CEO (s257 LGA 2009)	
Description of Power - <i>Planning Act 2016</i>	Section	Delegation Date	Condition(s)
<p>Power to act as the “assessment manager” for code assessable development applications made under the <i>Building Act 1975</i>, change representations, cancellation applications, lapsed approvals or applications, and extension applications received by Council under Chapter 3 of the Act.</p> <p>For avoidance of doubt, the power delegated includes the power to take all actions of an assessment manager and consider all matters as detailed in sections 48, 51, 53, 54, 59, 60, 61, 62, 63, 64, 65, 67, 71, 76, 84, 85, 86, 87, 93 100, 101, 105, 107 and 109 of the Act.</p>	Sections 48, 51, 53, 54, 59, 60, 61, 62, 63, 64, 65, 67, 71, 76, 84, 85, 86, 87, 93, 100, 101, 105, 107 and 109	Xx/xx/2017	<p>Powers only extend to decisions relating to applications received under the provisions of the <i>Building Act 1975</i>.</p> <p>Any decision under the Building Act or Planning Act that is required to be made by a building certifier must only be made by a building certifier.</p>
<p>Power to act as a “referral agency” for all development applications received by Council as a referral agency under Chapter 3 of the Act.</p> <p>For avoidance of doubt, the power delegated includes the power to take all actions of a referral agency and consider all matters as detailed in sections 54, 55, 56, 57, 65, 66, 67, 84, 85, 100, 107 and 109 of the Act.</p>	ss54, 55, 56, 57, 65, 66, 67, 84, 85 100, 107 and 109	Xx/xx/2017	
<p>Power to act as a “responsible entity” for all change applications received by Council as a responsible entity under Chapter 3 of the Act.</p> <p>For avoidance of doubt, the power delegated includes the power to take all actions of a responsible entity and consider all matters as detailed in sections 79, 80, 81, 82, 83, 93, 100, 105, 107 and 109 of the Act.</p>	ss79, 80, 81, 82, 83, 93 and 100, 105, 107 and 109	Xx/xx/2017	
<p>Power to act as an “affected entity” for all change applications received by Council as an affected entity under Chapter 3 of the <i>Planning Act 2016</i>.</p> <p>For avoidance of doubt, the power delegated includes the power to take all actions of an affected entity and consider all matters as detailed in section 80 of the Act.</p>	s80	Xx/xx/2017	
Power to note an approval referred to in subsection (1) on Council’s planning scheme and give notice of the approval to the chief executive.	s89	Xx/xx/2017	
Power to make submissions in response to a proposed call in notice received by Council.	s102	Xx/xx/2017	
Power, as a participating local government for a distributor-retailer, to enter a break-up agreement about the charges break-up.	s114	Xx/xx/2017	
Power to carry out the steps required after making a charges resolution.	s118	Xx/xx/2017	

Name of Legislation / Legislative Powers		Delegations by Council to CEO (s257 LGA 2009)	
Description of Power - <i>Planning Act 2016</i>	Section	Delegation Date	Condition(s)
Power to give an infrastructure charges notice. For avoidance of doubt, the power delegated includes the power to take all actions and consider all matters as detailed in sections 119, 120, 121 and 129.	ss119, 120, 121 and 129	Xx/xx/2017	
Power, as a local government that gave an infrastructure charges notice, to agree with the recipient about:- a) whether the levied charge may be paid other than as required under section 122, including whether it may be paid by instalments; and/or b) whether infrastructure may be provided instead of paying all or part of the levied charge.	s123	Xx/xx/2017	
Power, as a local government, to consider representations made on an infrastructure charges notice and, issue a negotiated notice or give a decision notice.	s125	Xx/xx/2017	
Power, as a local government with a LGIP that identifies adequate trunk infrastructure to service the subject premises, to impose a development condition requiring either or both of the following to be provided at a stated time: a) the identified infrastructure; and/or b) different trunk infrastructure delivering the same desired standard of service.	s128(1)	Xx/xx/2017	
Power, as a local government with a LGIP that does not identify adequate trunk infrastructure to service the subject premises, to impose a development condition requiring development infrastructure necessary to service the premises to be provided at a stated time.	s128(2)	Xx/xx/2017	
Power, as a local government, to impose an extra payment condition. For avoidance of doubt, the power delegated includes the power to take all actions and consider all matters as detailed in sections 130, 131, 132, 133, 134 and 135.	ss130, 131, 132, 133, 134 and 135	Xx/xx/2017	
Power in the circumstances referred to in subsection (1) to, by notice given to the applicant, amend the infrastructure charges notice.	s137	Xx/xx/2017	
Power, as a local government, to consider and decide a conversion application. For avoidance of doubt, the power delegated includes the power to take all actions and consider all matters as detailed in sections 140, 141 and 142	ss140, 141 and 142	Xx/xx/2017	
Power, as a local government, to agree with an applicant that a levied charge, for the purpose of its recovery, is not taken to be rates.	s144(2)	Xx/xx/2017	
Power, as a local government, to impose a development condition about non-trunk infrastructure.	s145	Xx/xx/2017	The exercise of this power only applied to decisions where the power to act as "assessment manager" has been delegated.

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Description of Power - <i>Planning Act 2016</i>	Section	Delegation Date	Condition(s)
Power in the circumstances referred to in subsection (1) to:- a) pay the amount of the levied charge to the State infrastructure provider; and b) agree with the State infrastructure provider and the person who provided the replacement infrastructure about when the amount of the levied charge will be paid.	s149	Xx/xx/2017	
Power, as a local government, to enter an infrastructure agreement. For avoidance of doubt, the power delegated includes the power to take all actions and consider all matters as detailed in Chapter 4, Part 4.	Chapter 4, Part 4	Xx/xx/2017	
Power, as an enforcement authority, to give a show cause notice.	s167	Xx/xx/2017	
Power, as an enforcement authority, to give an enforcement notice and to do all things necessary in giving the enforcement notice, including: a) consulting with a private certifier before giving the notice; and b) give notice to the chief executive about the giving or withdrawing of an enforcement notice.	ss168, 169 and 174	Xx/xx/2017	
Power to bring offence proceedings for an offence against the Act.	s174	Xx/xx/2017	
Power, as an enforcement authority, to:- a) take the action required under the enforcement order; and b) recover the reasonable cost of taking the action as a debt to the authority from the defendant.	s176(10)	Xx/xx/2017	
Power, as an enforcement authority in an offence proceeding, to apply for an order for the payment of the expenses.	s178(1)(b)	Xx/xx/2017	
Power to the start proceedings in the P&E Court for an enforcement order.	s180	Xx/xx/2017	
Power, as an enforcement authority, to:- a) take the action required under the enforcement order; and b) recover the reasonable cost of taking the action as a debt to the authority from the respondent.	s180(13)	Xx/xx/2017	
Power, as an enforcement authority in an offence proceeding, to apply for a disposal order.	s214	Xx/xx/2017	
Power to make a claim for compensation from the State where Council incurs loss because of the exercise, or purported exercise, of a power by or for an inspector.	s221	Xx/xx/2017	
Power as an appellant or co-respondent to make an application for or participate in an appeal and to do all things necessary to finalise the appeal.	s229	Xx/xx/2017	
Power to elect to be a co-respondent in an appeal.	s230(6)	Xx/xx/2017	

Name of Legislation / Legislative Powers		Delegations by Council to CEO (s257 LGA 2009)	
Description of Power - <i>Planning Act 2016</i>	Section	Delegation Date	Condition(s)
Power to start proceedings for a declaration by a tribunal. For avoidance of doubt, the power delegated includes the power to take all actions detailed in sections 239(1), 240 and 241.	ss239(1) 240 and 241,	Xx/xx/2017	
Power to give the registrar information that the registrar reasonably requires for the proceedings.	s246(2)	Xx/xx/2017	
Power to appear as a party to a tribunal proceeding.	s248	Xx/xx/2017	
Power to make submissions to the tribunal.	s249	Xx/xx/2017	
Power to give notice to the Registrar once a tribunal's direction or order has been complied with.	s257	Xx/xx/2017	
Power to give an applicant the planning and development certificate applied for.	s265	Xx/xx/2017	
Power to note the registration of premises on Council's planning scheme.	s267(13)	Xx/xx/2017	This delegation does not include any powers that are required to be exercised by Council pursuant to a resolution of Council.
Power, as an owner of premises in an affected area, before entering into a lease of the premises with a person, to give a notice that states :- a) the premises are in an affected area; and b) that restrictions may apply to the person in taking proceedings about emissions from registered premises in the affected area.	s270	Xx/xx/2017	
Power to make an amendment of a type specified in subsection (1) by following the process set out in the rules. For avoidance of doubt, the power delegated includes the power to take all actions as detailed in the rules.	s293(5)	Xx/xx/2017	